To establish a new Justice Department grant program to reduce the number of individuals incarcerated in local jails, reduce the number of days individuals are incarcerated in local jails, and support community-led local justice reinvestment.

IN THE HOUSE OF REPRESENTATIVES

Mr. TRONE introduced the following bill; which was referred to the Committee on

A BILL

To establish a new Justice Department grant program to reduce the number of individuals incarcerated in local jails, reduce the number of days individuals are incarcerated in local jails, and support community-led local justice reinvestment.

1  Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2  SECTION 1. SHORT TITLE.

3  This Act may be cited as the “Community First Pre-Trial Reform and Jail Decarceration Act”.

SEC. 2. GRANTS AUTHORIZED.

(a) GRANTS AUTHORIZED.—The Attorney General, acting through the Bureau of Justice Assistance, shall make grants to eligible partnerships for purposes of reducing the number of individuals in jails operated by units of local government and the number of days such individuals spend in jail as follows:

(1) Grants for analysis and planning, which shall be used to—

(A) collect and analyze local criminal justice and incarceration data, including data on racial and ethnic disparities; and

(B) develop a strategic, collaborative plan to decrease local jail incarceration that shall be public facing.

(2) Grants for implementation of the plan described in paragraph (1)(B) and which may be used for activities to reduce the number of individuals incarcerated in local jails and to reduce the number of days that individuals are so incarcerated including—

(A) eliminating or reducing the use of cash bail;

(B) reducing revocations of conditional release;

(C) creating or increasing the availability of pretrial services, including efforts undertaken
in collaboration with community-based organizations and non-profits;

(D) investing in case processing and processes to reduce overall time to disposition and time between court events;

(E) ensuring early assignment of counsel and presence of counsel at individuals’ first court appearance or bail hearing;

(F) providing training to various actors within the criminal justice system on indigent defense that is aligned with best practices in the field;

(G) creating or expanding diversion programs that do not require an individual to enter into a guilty plea and do not use incarceration as a sanction for noncompliance—

   (i) at the pre-arrest phase;

   (ii) at the pre-booking phase; and

   (iii) at the post-booking phase; or

(H) any other emerging, promising, or evidence-based practices that an eligible partnership proposes and the Attorney General deems likely to reduce local jail incarceration.
(b) ELIGIBLE PARTNERSHIP.—An eligible partnership is a partnership between not less than 2 of the following:

(1) A unit of local government.

(2) A territory.

(3) An Indian tribe.

(4) A non-profit organization.

(c) APPLICATION.—An application for a grant shall include the following:

(1) Details of the range of pretrial services available within the jurisdiction where the jail being targeted for incarceration rate reduction under this Act is located.

(2) A plan for ongoing process evaluation and outcome evaluation.

(3) Either—

(A) data—

(i) disaggregated by race, ethnicity, and gender on incarceration for correctional facilities within the local jurisdiction for each of the last five calendar years that includes—

(I) the average daily population;

(II) the percentage of individuals held pretrial and post-conviction; and
(III) the average length of stay for individuals held pretrial and post-conviction; and

(ii) disaggregated by race, ethnicity, and gender on arrests made by all law enforcement entities operating within the local jurisdiction over each of the last five calendar years; or

(B) in the event that elements of such incarceration or arrest data are not able to be compiled and reported, a comprehensive plan to obtain as much of the unavailable data as possible within the first year of the award.

SEC. 3. REQUIREMENTS.

(a) IN GENERAL.—Grantees shall—

(1) consult in all phases of planning, implementation, and evaluation with municipal, county, and state law enforcement agencies, courts in the local jurisdiction, public defense organizations and criminal defense practitioners in the local jurisdiction, local substance use and mental health authorities, local community members, local community members who have been justice-involved, and community-based organizations and service providers;
(2) analyze local jail incarceration and arrest data to identify the drivers of jail incarceration and racial and ethnic disparities and ground jail population reduction strategies in that data;

(3) reduce incarceration rates by no less than 5 percent the first year of an implementation grant, 10 percent in each subsequent year, and 50 percent by the end of the grant period;

(4) in consultation with the Bureau of Justice Assistance—

(A) adopt and implement a methodology for measuring racial and ethnic disparities in jail incarceration;

(B) set goals for the reduction of racial and ethnic jail incarceration disparities; and

(C) decrease levels of incarceration across all races and ethnicities;

(5) engage an external evaluator to coordinate data collection and reporting in an ongoing fashion and perform both a process and outcome evaluation, with support from the Bureau of Justice Assistance; and

(6) use financial savings created through decreased incarceration to sustain programmatic and community-based efforts to reduce jail incarceration.
(b) **Grant Oversight Requirement.**—

(1) **In General.**—If a grantee fails to meet the incarceration rate and racial and ethnic disparities reduction requirements under subsection (a)(3) in any year of the award, the Bureau of Justice Assistance shall perform an audit of the use of their award and the grantee shall implement new strategies based on that audit. If a grantee fails to meet the incarceration rate and racial and ethnic disparities reduction requirements under subsection (a)(3) in any two consecutive years of the award, the Attorney General shall terminate the award.

(2) **Modification Authority.**—The Bureau of Justice Assistance may grant a modification to the incarceration rate reduction requirement under subsection (a)(3) if the Bureau determines after an audit that the failure to meet the incarceration rate reduction requirement was caused by an increase in population in the covered jurisdiction. If a grantee fails to meet the modified reduction requirements in any two subsequent years of the award, the Attorney General shall terminate the award.
SEC. 4. GRANT AMOUNTS.

(a) PLANNING GRANTS.— A grant under section 2(a)(1) may be for not more than $100,000 for a single grantee, and shall be for a term of 1 year.

(b) IMPLEMENTATION GRANTS.— A grant under section 2(a)(2) shall be for a term of 6 years, and shall be structured as follows:

(1) For the first year of the grant term, an amount shall be disbursed that is to be not less than $500,000 and not more than $3,000,000, contingent upon acceptance of a grantee’s proposed budget for activities under the grant, which may be subject to revision during the award process.

(2) Award amounts shall decrease annually by—

(A) 10 percent in the second year;

(B) 15 percent in the third year;

(C) 20 percent in the fourth year; and

(D) 25 percent in the fifth year.

(3) Award amounts during the sixth year of the award may not be used for programmatic activities and shall support only program evaluation and the drafting of a final report, and such funds shall be available to the grantees until expended.

SEC. 5. SELECTION PRIORITY.

In selecting grantees, the Attorney General shall—
(1) give priority to applicants from jurisdictions with the highest incarceration rates that are not already in decline and whose applications contain the most ambitious and attainable plans for reducing that rate;

(2) give additional priority to applicants from jurisdictions seeking to use funds under this Act to prevent the local government from expanding the number of beds in local correctional facilities;

(3) for any year in which there will only be one new or ongoing award, ensure that a small metropolitan, micropolitan, or noncore area is the recipient of the award;

(4) for any year in which there will be more than one new or ongoing award, ensure that small metropolitan, micropolitan, or non-core areas are the recipients of at least two awards; and

(5) for any year in which there will be three or more new or ongoing awards, ensure that no more than one large central metropolitan area is a recipient of an award.

SEC. 6. DEFINITIONS.

In this Act:

(1) The term “conditional release” means probation, parole, supervised release, home confinement,
community supervision, and other practices under which an individual is supervised in the community by the criminal justice system and may be incarcerated if found in violation of the conditions of their release.

(2) The term “diversion” means a program or practice that—

(A) places individuals who come into contact with the criminal justice system into alternative processes outside the standard scope of criminal justice processing; and

(B) reduces an individual’s involvement in the criminal justice system in both the short and long term.

(3) The term “emerging practice” means a program or practice—

(A) with initial implementation resulting in decreased local jail incarceration in one or more communities; and

(B) that will be evaluated through a well-designed and rigorous study.

(4) The term “evidence-based practice” means a program or practice that—

(A) is demonstrated to be effective when implemented with fidelity;
(B) is based on a clearly articulated and empirically supported theory;

(C) has measurable outcomes relevant to reducing jail incarceration, including a detailed description of the outcomes produced in a particular population, whether urban or rural; and

(D) has been scientifically tested and proven effective through randomized control studies or comparison group studies and with the ability to replicate and scale.

(5) The term “micropolitan area” has the meaning established under the Centers for Disease Control and Prevention’s (hereinafter in this Act referred to as the “CDC”) National Center for Health Statistics Urban-Rural Classification Scheme for Counties.

(6) The term “small metropolitan area” has the meaning established under the CDC’s National Center for Health Statistics Urban-Rural Classification Scheme for Counties.

(7) The term “noncore areas” has the meaning established under the CDC’s National Center for Health Statistics Urban-Rural Classification Scheme for Counties.
(8) The term “post-booking diversion” means a program or practice that diverts individuals from formal criminal justice system processing after formal intake processing into jail.

(9) The term “pre-booking diversion” means a program or practice that diverts individuals from formal criminal justice system processing prior to arrest or prior to formal intake processing into jail.

(10) The term “promising practice” means a program or practice that—

(A) is demonstrated to be effective based on positive outcomes relevant to reducing jail incarceration from one or more objective, independent, and scientifically valid evaluations, as documented in writing to the Attorney General; and

(B) will be evaluated through a well-designed and rigorous study.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $20,000,000 for each of fiscal years 2021 through 2025 for planning grants; and

(2) $100,000,000 for each of fiscal years 2021 through 2025 for implementation grants, of which
10 percent of any appropriated amount is reserved specifically for evaluation activities.